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# NASA Policy Directive

## NPD 2091.1A

Effective Date: May 20, 2002  
Expiration Date: May 20, 2007

**COMPLIANCE IS MANDATORY**

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## Subject: Inventions Made By Government Employees

**Responsible Office: Office of the General Counsel**

### 1. Policy

Consistent with 37 CFR Part 501, it is NASA's policy to:

- a. Protect the Government's interest in, and to provide for the widest practicable and appropriate dissemination, early utilization, expeditious commercial development, and continued availability of, inventions reported to NASA that are made by Government employees.
- b. Be fair and impartial in the administration of the rights to such inventions and to afford an employee making an invention the opportunity to retain title to such invention for which there is insufficient Government interest or equity for the Government to acquire title.
- c. Ensure that all employees making and reporting inventions on which NASA files patent applications are considered by the Inventions and Contributions Board (ICB) for an initial monetary award as well as a supplemental monetary award, based both on the commercial application of the invention and its contribution to NASA's missions and program objectives.

### 2. Applicability

- a. This NPD is applicable to NASA Headquarters and all NASA Centers, including Component Facilities.
- b. This NPD applies to any invention made by a NASA employee or an employee of another Government agency reporting an invention to NASA.
- c. The term "invention" means any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, that is or may be patentable or protectable under the intellectual property laws of the United States or of a foreign country.

### 3. Authority

- a. 42 U.S.C. 2451(c), 2473(a)(3), 2457(h), and 2458.
- b. 15 U.S.C. 3710b, 3710d.
- c. Executive Order 10096, dated January 23, 1950.
- d. 37 CFR Part 501.
- e. Executive Order 12591, dated April 10, 1987.
- f. Executive Order 12674, dated April 12, 1989.
- g. 14 CFR Part 1240.

### 4. Reference

- a. NPD 2092.1, "Royalties Received by NASA from the Licensing of Patents and Patent Applications."
- b. NPD 2000.1E, "Authority to Take Certain Actions for the General Counsel," dated February 24, 1997.

## 5. Responsibility

- a. Officials-in-Charge of Headquarters Offices are responsible for the overall management of this policy.
- b. The NASA General Counsel, or designee(s), the Associate General Counsel (Intellectual Property), and Center Patent or Intellectual Property Counsel, are responsible for the following:
  - (1) Making the NASA determination of the respective rights of the Government and the employee in any reported invention, and advising the employee in a timely manner of the determination.
  - (2) Determining whether there is sufficient interest to obtain patent protection (domestic or foreign) on any invention reported to NASA for which the Government has the right to obtain either title or a Government license, and based on such determination either--
    - (a) Authorize the filing of a patent application by NASA and so notify the employee; or
    - (b) In the case of insufficient Government interest in pursuing patent protection, notify the employee of the determination and allow the employee the opportunity to pursue patent protection.
  - (3) Notifying the ICB of any NASA authorization to file a patent application on any invention made and reported to NASA by a Government employee.
  - (4) Taking all suitable and necessary steps to obtain and maintain patent protection (domestic and foreign) on any reported invention to which the Government has the right to obtain either title or a Government license and for which there is sufficient Government interest to do so.
  - (5) Ensuring that all inventors named in a patent application meet the legal requirements of inventorship.
- c. The ICB, pursuant to 14 CFR Part 1240, shall upon notification of the authorization to file a patent application on any invention made by a NASA employee, consider the inventor for an initial monetary award as well as a supplemental monetary award, based on both the commercial application of the invention and its contribution to NASA's mission and program objectives.
- d. Center Directors, in coordination with the Institutional Program Office Associate Administrators, are responsible for the following:
  - (1) Ensuring that employees making inventions submit to the Office of the General Counsel, or to the designee(s), the Center Patent or Intellectual Property Counsel, disclosures of such inventions; and
  - (2) Ensuring that the supervisor of an employee reporting an invention, or other NASA personnel having immediate technical cognizance of a reported invention, provide upon request the following:
    - (a) Either concurrence with, or additional comments on, any information regarding the circumstances under which the invention was made.
    - (b) An evaluation of the technical significance of the invention, and to the extent feasible, an assessment of the commercial potential of the invention.
- e. Each employee who makes an invention (whether or not the invention was made during working hours, was made with a contribution of Government resources, or bears a relationship to the official duties of the employee) is required to submit to the Office of the General Counsel, or to the delegated Center Patent or Intellectual Property Counsel, a disclosure of such invention.
  - (1) With respect to any invention reported, the employee shall either--
    - (a) Agree to assign titles of the invention to the Government, in any country, upon request of NASA; or
    - (b) If the employee believes NASA is not entitled to such assignment of the invention, the employee shall provide information regarding the circumstances under which the invention was made and the relationship of the invention to the employee's official or assigned duties so that a rights determination can be made pursuant to 37 CFR Part 501.
  - (2) Employees shall execute all documents necessary for NASA to file and prosecute patent applications and to obtain and maintain patents on any inventions for which the Government obtains assignments of title and for which NASA decides to protect by patenting in any country.
  - (3) Employees shall assist, as requested, in the prosecution of the patent applications, and in making available records relating to the conception or reduction to practice the invention, if needed to establish inventorship or priority of invention.
  - (4) Employees shall take all reasonable steps to prevent creating a bar to patentability of an invention, including consulting with the Office of the General Counsel or the Center Patent or Intellectual Property Counsel, prior to

publishing or otherwise disclosing any details of the invention or publicly using the invention.

## 6. Delegation of Authority

None.

## 7. Measurements

None.

## 8. Cancellation

NPD 2091.1, dated July 31, 1997

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**/s/ Sean O'Keefe**  
**Administrator**

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**Attachment A: (Text)**

**(URL for Graphic)**

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